

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JOSEFA LOPEZ, et al.,

Plaintiffs,

vs.

EXECUTIVE TRUSTEE SERVICES,  
LLC, et al.,

Defendants.

3:09-CV-0180-ECR (VPC)

**ORDER**

Before the court are motions for protective order staying discovery and staying oppositions to plaintiffs' motions filed by defendants Citimortgage and other MERSCORP, Inc. Shareholders and/or MERS members (#253), defendants FREDDIE MAC and FANNY MAE (#259), and defendants National City Bank, National City Mortgage, and PNC Financial Services Group, Inc. (#263). Other defendants filed joinders (#s 254, 255, 257, 258, 261, 262, and 265), plaintiffs opposed (#266) and defendants replied (#s 279, 280, & 287). The court held an expedited hearing on these motions on August 11, 2009 and took the motions under submission.

On May 22, 2009, plaintiffs filed their motions for preliminary injunction (#75) and for class certification (#77). Thereafter, defendants moved to take discovery to oppose these motions, plaintiffs sought leave to conduct discovery prior to a Rule 26(f) conference, and on June 30, 2009, this court heard oral argument. The court granted in part and denied in part the motions and established a protocol for the parties to take limited discovery in anticipation of completing briefing on the preliminary injunction and class certification motions (#190).

On July 14, 2009, this court issued a second order extending the deadline for defendants to file their opposition memoranda until Friday August 14, 2009, and the court also ordered the parties to meet and confer concerning a deposition schedule for defendants' discovery (#234).

1 On July 17, 2009, the parties filed a stipulation concerning a deposition schedule, including the  
2 deposition of plaintiff's expert witness, Neil Garfield, which this court approved (#237). At the August  
3 11, 2009 hearing, the parties advised the court that this discovery is complete, and while there may be  
4 minor disputes regarding Mr. Garfield's deposition, the parties will meet and confer in an effort to  
5 resolve those disputes.

6 In the interim, defendants filed motions to dismiss (#s 148, 153, 156, 163, 165, 167, 168, 170,  
7 172, 174, 179), and those motions are fully briefed. Defendants now seek to stay the remaining  
8 discovery earlier ordered by the court and to stay any further briefing on plaintiffs' motions for  
9 preliminary injunction and class certification until the District Court considers the pending motions to  
10 dismiss. They contend plaintiffs' amended complaint is deficient under Fed.R.Civ.P. 8(a)(2), 9(b), the  
11 plaintiffs lack standing to sue certain defendants, that federal preemption bars plaintiffs' state law claims  
12 as to certain defendants, and that the amended complaint is based upon vague and conclusory  
13 "information and belief" allegations.

14 The District Court may decide that effective management of this action will entail consideration  
15 of these pending dispositive motions in a particular order. However, defendants have had the benefit  
16 of the court's June 30, 2009 order, which allowed them the discovery they sought to oppose the motions  
17 for preliminary injunction and class certification. The court will not rescind its prior order and foreclose  
18 plaintiffs from that same opportunity, nor will the court stay briefing on plaintiffs' preliminary injunction  
19 and class certification motions to await disposition of the motions to dismiss. However, the court will  
20 stay any further discovery, apart from that earlier ordered on June 30, 2009.

21 Based upon the foregoing and for good cause appearing,

22 **IT IS ORDERED** that defendants' motions for protective order staying discovery and staying  
23 their oppositions to plaintiffs' motions for class certification and preliminary injunction (#s 253, 259 &  
24 263) are GRANTED In PART AND DENIED IN PART as follows:

- 25 1. All discovery in this action is STAYED until further order of this court, except that  
26 discovery ordered by this court on June 30, 2009 (#190).

- IT IS SO ORDERED.**

Valerie P. Cooke

3